



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

November 19, 2014

Brenda Smith
CV Brokerage, Inc.



Warning Letter Re: FPPC No. 13/0492; CV Brokerage, Inc.

Dear Ms. Smith:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (Act).¹ This letter is in response to a non-filer referral from the California Secretary of State's office (SOS) that alleged you violated the Act's lobbyist reporting provisions. After review of the referral, the Enforcement Division (Enforcement) has decided to close its file on this matter without seeking a penalty and is instead closing your case with a warning letter. The basis for this decision follows:

The Act's lobbyist reporting provisions include placement agents in the definition of a "lobbyist."² A placement agent, as defined in Section 82047.3, is an individual hired by an external manager³ or investment fund managed by an external manager and acts as an intermediary in connection with the offer or sale of either the investment management services of the external manager⁴ or an ownership interest in an investment fund managed by the external manager⁵ to a state public retirement system in California (e.g. CalPERS and CalSTRS).

Because placement agents fall under the definition of a lobbyist, under Section 86113 of the Act, the employer of a placement agent becomes a Lobbyist Employer under Section 82039.5.⁶

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the FPPC are contained in Sections 18110 through 18997 of Title 2, Division 6 of the California Code of Regulations.

² See § 82039(a)(2).

³ For the purposes of the Act, "External Manager" means a person who:

- (1) Is seeking to be, or is, retained by a state public retirement system in California or an investment vehicle to manage a portfolio of securities or other assets for compensation. [§ 82025.3(a)(1)].
- (2) Manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a state public retirement system in California or an investment vehicle. [§ 82025.3(a)(2)].

⁴ See § 82047.3(a)(1).

⁵ See § 82047.3(a)(2).

⁶ For the purposes of the Act, a "Lobbyist Employer" is A Lobbyist Employer is any person, other than a lobbying firm, who employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action [§ 82039.5(a)].

A placement agent must complete and verify a Lobbyist Report (Form 615) containing all activity expenses incurred and certain contributions made or delivered by the lobbyist during the reporting period. The Form 615 is then to be provided to the Lobbyist Employer. Lobbyist Employers are obligated to be registered with SOS under Section 86100(c) and are subject to the Act's lobbyist reporting provisions.⁷

A Lobbyist Employer is responsible for attaching a Form 615 for all lobbyists employed to the Report of Lobbyist Employer (Form 635), pursuant to Section 86116, by the times specified in Section 86117 and in the manner required by Sections 86118 and 84605. The obligation to file begins with the registration of a Lobbyist Employer and continues through the end of the legislative session or until the Lobbyist Employer terminates or withdraws.

In this case, Enforcement found CV Brokerage, Inc. was inappropriately registered as a Lobbyist Employer and Brenda Smith was inappropriately registered as a Lobbyist because she did not meet the statutory definition of a placement agent. Because this error was made in a good faith effort to comply with the Act and you have no prior enforcement history, no public harm occurred and Enforcement is closing this case with a warning letter.

The information in this case will be retained and may be used against you. Please be advised that any future failure to comply with the provisions of the Act could result in an enforcement action.

If you have further questions regarding this letter, please contact Liz Smutz at (916) 322-7050.

Sincerely,

A black rectangular redaction box covers the signature of Gary S. Winuk.

Gary S. Winuk
Chief, Enforcement Division

cc: California Secretary of State, Political Reform Division

GSW:tf:ls

⁷ See §§ 86115, 86116, 86117, 86118.